

Notice of Allowability	Applicant No.	Applicant(s)
	10/809,724	LAVIANA, MARC R.
	Examiner	Art Unit
	Louanne C Krawczewicz Myers	1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to papers filed 3/25/04.
2. The allowed claim(s) is/are the claim.
3. The drawings filed on 25 March 2004 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Examiner's Amendment

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **Must** be submitted no later than the payment of the Issue Fee.

Examiner's Amendment Authorized

Authorization for this Examiner's Amendment was given in a telephone interview with Penny J. Aguirre on January 6, 2005.

Amendment to the Disclosure

The application has been amended as follows:

- A. Page 1, lines 5 and 15, "Hosta" has been deleted and --*Hosta*-- has been inserted in its place.
- B. Page 1, lines 17 and 18, "presumed to have originated as" and "that arose during micropropagation" have been deleted.
- C. Page 1, line 17, "sport" has been deleted and --naturally occurring whole plant mutation-- has been inserted in its place.

- D. Page 2, line 14, "64 cm (25 in)" has been deleted and --30 cm (12 in)-- has been inserted in its place.
- E. Page 2, line 15, "30 cm (12 inches)" has been deleted and --64 cm (25 inches)-- has been inserted in its place.
- F. Page 4, line 16, "are" has been deleted and --area-- has been inserted in its place.
- G. Page 4, line 31, --and blushed with shadings of N82C throughout-- has been inserted after "144A".
- H. Page 5, line 3, --basal-- has been inserted before "area".
- I. Page 5, line 13, "scapes" has been deleted and --scape-- has been inserted in its place.
- J. Page 5, line 16, "Base" has been deleted and "Background color" has been inserted in its place.
- K. Page 5, line 16, "effective" has been deleted and "overall" has been inserted in its place.

- L. Page 5, line 18, "width" has been deleted and --diameter-- has been inserted in its place.
- M. Page 5, line 19 "in width" has been deleted and --cm in diameter-- has been inserted in its place.
- N. Page 5, line 20, "width" has been deleted and --diameter-- has been inserted in its place.
- O. Page 5, lines 21 and 22, have been deleted.
- P. Page 5, line 24, "features" has been deleted.
- Q. Page 5, line 26, "Tepal characteristics.- Effectively Light" has been deleted and --Tepals.- Background color of N155B with markings of N82D, overall color is light-- has been inserted in its place.
- Q. Page 5, line 28, --spatulate shape, and-- has been inserted before "glabrous".
- N. Page 6, line 8, "be" has been deleted and --been-- has been inserted in its place.

Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louanne C. Krawczewicz Myers whose telephone number is (571) 272-0979. The examiner can normally be reached on Monday and Thursday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone numbers for the group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

LKM



**KENT BELL
PRIMARY EXAMINER**

